

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA

Plaintiff, Criminal No. 12-26 (10) (JRT/JSM)

V.

DERRICK DEWAYNE WILLIAMS, JR.

ORDER

Defendant

Gregory G. Brooker, Acting United States Attorney, and Michael L. Cheever, Assistant United States Attorney, **UNITED STATES ATTORNEY'S OFFICE**, 300 South Fourth Street, Suite 600, Minneapolis, MN 55415, for plaintiff.

Derrick Dewayne Williams, Jr., #16292-041, United States Penitentiary, Victorville Complex, P.O. Box 3900, Adelanto, CA 92301, *pro se* defendant.

Defendant Derrick Dewayne Williams, Jr., has filed a petition for reduction or modification of sentence pursuant to 18 U.S.C. § 3582(c)(2). Williams argues that he qualifies for a reduction under Amendment 782 of the United States Sentencing Guidelines (“U.S.S.G.”). Because the Court will conclude that Williams does not qualify for a reduction under Amendment 782, the Court will deny Williams’s motion.

BACKGROUND

In May 2013, Williams was convicted of one count of conspiracy to participate in racketeering activity under 18 U.S.C. § 1962(d). (J. in a Criminal Case (“Judgment”) at 1, May 30, 2013, Docket No. 1233.) The Court adopted the Presentencing Investigation Report (“PSI”) without change. (Statement of Reasons at 1, May 30, 2013, Docket No. 1234.) For Williams’ racketeering offense, the base offense level is “the offense level

applicable to the underlying racketeering activity.” U.S.S.G. § 2E1.1. The PSI concluded that Williams’ racketeering activity involved three activities: attempted murder, assault, and witness tampering. (PSI ¶¶ 208-09, Jan. 22, 2012.) The PSI, therefore, used the base offense levels for Attempted Murder under U.S.S.G. § 2A2.1(a)(2); Aggravated Assault under U.S.S.G. § 2A2.2(a); and Witness Tampering under U.S.S.G. § 2J1.2(a). (See PSI ¶¶ 211-237.) The PSI and the Court concluded that Williams’s total offense level was 29 after additional enhancements and adjustments. (See PSI ¶ 237; Statement of Reasons at 1.) The Court sentenced Williams to 118 months in prison. (Judgment at 2.)

Since Williams’s sentencing, the United States Sentencing Commission has adopted Amendment 782. Amendment 782 to the U.S.S.G. lowers the base offense level for most drug quantity offenses under U.S.S.G. § 2D1.1. *United States v. Thomas*, 775 F.3d 982, 982-83 (8th Cir. 2014). Amendment 782 applies retroactively. *Id.* at 983.

DISCUSSION

A district court may reduce a previously imposed prison sentence term if the defendant’s sentence was “based on a sentencing range that has subsequently been lowered by the Sentencing Commission . . . if such reduction is consistent with applicable policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(2). The Commission has authorized a § 3582(c)(2) reduction if an amendment that applies retroactively lowers the defendant’s applicable guidelines range. U.S.S.G. § 1B1.10(a)(1); *see also Thomas*, 775 F.3d at 982.

Williams argues that he is entitled to a reduction in his sentence pursuant to Amendment 782. The guideline that Amendment 782 amended establishes base offense levels for “unlawful manufacturing, importing, export, or trafficking” of drugs. U.S.S.G. § 2D1.1. It was not used in calculating Williams’s base offense level. (*See PSI ¶¶ 211-37.*) Rather, Williams’s base offense level was calculated using the base offense levels for Attempted Murder, Aggravated Assault, and Witness Tampering. (*See id.*); *accord* U.S.S.G. §§ 2A2.1-.2, 2J1.2. Because Amendment 782 has no effect on the calculation of Williams’s sentence, the Court will deny William’s petition for reduction or modification of sentence.

ORDER

Accordingly, **IT IS HEREBY ORDERED** that Defendant Derrick Dewayne Williams’s Petition for Reduction or Modification of Sentence [Docket No. 1793.] is **DENIED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: December 6, 2017
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
Chief Judge
United States District Court